

REMARKS

Claims 1-11, 13-21, 23, 24, 26-28, 30-33, 35, 37, 40-44, and 46-93 are pending. Claims 7-11, 17-20, 32, 41-44, and 46-93 are withdrawn. Claim 16 is canceled herein. New claim 94 has been added. Therefore, claims 1-6, 13-15, 21, 23, 24, 26-28, 30, 31, 33, 35, 37, 40, and 94, are under consideration. Claim 37 has been amended to correct its dependency from a canceled claim to currently pending claim 35. Claims 1, 15, 26, and 35 have been amended to indicate that healthy controls have no erosive arthritis. Support for the amendment to claims 1, 15, 26, and 35 for the recitation wherein the healthy controls do not have erosive arthritis can be found throughout the specification and at least on page at least on page 97, line 10 through page 99, lines 6 and in Figure 3, Figure 1, and Figure 26 where healthy controls are referred to as controls without erosive arthritis. Claims 1, 15, and 26 have also been amended to indicate that the tissue sample is blood. Support for the recitation wherein the tissue sample is “blood” can be found throughout the specification and at least in original claim 16. Claims 1, 26, and 35 have been amended to recite a “significant increase in the number of OCP in the subject.” Support for the amendment to claim 1 can be found at least on page 98, line 31 through page 99, lines 6 where a significant increase of OCP is discussed. Support for new claim 94 can be found in the same places as support amended claim 15 as well as in original claims 15 and 16. Applicants believe that these amendments do not constitute new matter nor raise new issues. Moreover, Applicants submit that these amendments were not made for reasons of patentability as the claims were clear as previously written.

Interview Summary

Applicants would like to thank the Examiner for the helpful discussion and comments made in the telephonic interview of April 13, 2010. During the interview, Applicants and the Examiner discussed claim amendments to overcome the Examiner’s rejection as well as directing the Examiner to evidence in support of a significant increase in the number of OCP in erosive arthritis.

Objection to the Claims

Claim 37 is objected to for allegedly being dependent on a canceled claim. Claim 37 has been amended to correct its dependency to claim 35 which incorporated the prior limitations of

now canceled claim 36. Applicants believe this objection to be overcome and respectfully request its withdrawal.

35 U.S.C. § 112, second paragraph

Claims 1-6, 13-16, 21, 23, 24, 26-28, 30, 31, 35, 37, and 40 are rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite. In particular the Examiner alleges that claims 1 and 15 are vague and indefinite for the recitation “increased number of OCP” and “increased number of osteoclasts,” respectively. Applicants have amended claims 1 and 15 to recite a “significant increase” in the number of OCP (claim 1) or multinucleated cells (claim 15) in accordance with discussion in the telephonic interview of April 13, 2010. Additionally, Applicants have amended claims 26 and 35 to recite the same limitation. Applicants believe the rejection is moot in light of Applicants amendments.

Additionally, Claim 35 was rejected as allegedly being indefinite. The Examiner alleges that essential steps from the claim are missing. Applicants have amended claim 35 herein. Applicants believe that the rejection is moot in light of Applicants amendments. Applicants believe this rejection to be overcome and respectfully request its withdrawal.

35 U.S.C. § 112, first paragraph

Claims 15 and 33 are rejected under 35 U.S.C. § 112, first paragraph as allegedly containing new matter. In particular, the Examiner alleges that the specification does not provide support for the recitation “wherein greater than 2.5 times more nucleated cells ...” As acknowledge in the Examiner’s interview summary, Applicants sufficiently addressed the support for this recitation in the telephonic interview of April 13, 2010. As claim 15 has been amended to remove this limitation, this rejection is now moot. However, new claim 94 which is identical to claim 15 except reciting the greater than 2.5 times limitation is impacted by the written description acknowledge by the Examiner. Applicants believe this rejection to be withdrawn in light of those discussions and covering new claim 94. Accordingly, this rejection will not address it further.

Pursuant to the above remarks, reconsideration and allowance of the pending application is believed to be warranted. The Examiner is invited and encouraged to directly contact the undersigned if such contact may enhance the efficient prosecution of this application to issue.

A Credit Card Payment authorizing payment in the amount of \$65.00 which is the small entity fee under 37 C.F.R. § 1.17(a)(1) for a one (1) month Extension of Time and a Request for a one (1) month Extension of Time are being submitted electronically. This amount is believed to be correct; however, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,

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/J. Gibson Lanier, Ph.D. Reg. No. 57,519/

April 30, 2010

J. Gibson Lanier

Date